

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

WILLIE L. SAMUELS,)	CASE NO. 3:08 CV 1677
)	
Petitioner,)	JUDGE ANN ALDRICH
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
JIM DENNIS,)	<u>AND ORDER</u>
)	
Respondent.)	

On July 11, 2008, petitioner pro se Willie L. Samuels, an inmate at the Correctional Center of Northwest Ohio, filed the above-captioned petition for writ of habeas corpus under 28 U.S.C. § 2254. The petition and attachments indicate Samuels challenges his April 2008 conviction in the Toledo Municipal Court. For the reasons stated below, the petition is denied and this action is dismissed.

A federal court may entertain a habeas petition filed by a person in state custody only on the ground that he is in custody in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a). In addition, petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254(b).

It is apparent of the face of the petition that petitioner has yet to file a direct appeal in the Ohio Court of

Appeals, an avenue still available to him under Ohio Appellate Rule 5. Thus, without regard to the potential merits of the grounds sought to be raised herein, the petition is obviously premature.

Accordingly, this action is dismissed without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability. Fed.R.App.P. 22(b); 28 U.S.C. § 2253.

IT IS SO ORDERED.

s/Ann Aldrich
ANN ALDRICH
UNITED STATES DISTRICT JUDGE

Dated: September 2, 2008